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JCN 1626



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Salvatore AVOLIO et al.
Serial No.:	10/551,564
Filed:	June 5, 2006
For:	INDOLE ACETAMIDES AS INHIBITORS OF THE HEPATITIS C VIRUS NS5B POLYMERASE

Art Unit: 1626

Examiner: Sun Jae Y. LOEWE

Case No.: ITT0055P

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

EXPRESS MAIL CERTIFICATE  
DATE OF DEPOSIT Jan 10 2008  
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RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In response to the Office Action mailed December 11, 2007, which set a one-month period for response, please consider the following remarks.

Claims 1-3, 5, 6 and 8-11 are pending in this application.

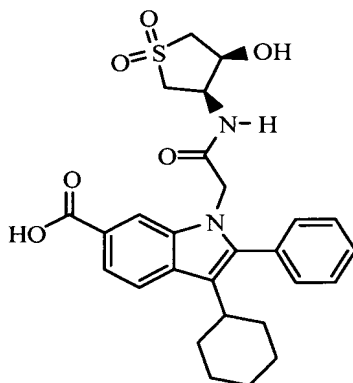
In the December 11, 2007, Office Action, restriction of the pending claims under 35 U.S.C. §§121 and 372 into one of the following Groups was required:

- Group I: claims 1-3, 5, 10 and 11, drawn to products of Formula Ia wherein  $X^2=CR^3$ , with the further election of a single compound required;
- Group II: claims 1-3, 5, 10 and 11, drawn to products of Formula I not covered by Group I, with the further election of a single compound required and subject to further restriction;
- Group III: claims 6 and 9, drawn to a process of using products of Group I, with the further election of a single compound required;
- Group IV: claims 6 and 9, drawn to a process of using products of Group II, with the further election of a single compound required and subject to further restriction;
- Group V: claim 8, drawn to a process of making products of Group I, with the further election of a single compound required; and

Group VI: claim 8, drawn to a process of making products of Group II, with the further election of a single compound required and subject to further restriction.

The Office Action asserts that the subject matter of the claims of Groups I-VI does not relate to a single inventive concept. Specifically, the Office Action asserts that there are no same or corresponding special technical features, because the sole linking technical feature of the subject matter of Groups I-VI is the indole attached directly to -C(O)N- with all other features being variables, and that this feature is "taught in the prior art".

In response to the Restriction Requirement, Applicants elect Group I, claims 1-3, 5, 10 and 11, drawn to products of Formula Ia in which  $X^2=CR^3$ , and specifically elect as the single compound the second compound shown on page 85 of the specification:



The Office Action further requires an election of species with respect to the compounds encompassed by Formula I obtained by varying the substituents to the core structure. In order to fully respond to this requirement, Applicants make the following further elections from the Markush groups provided in independent claim 1:

- Ar<sup>1</sup>: a moiety containing at least one aromatic ring and possessing 6 ring atoms;
- A<sup>1</sup>: C<sub>1-6</sub> alkyl, substituted by a non-aromatic alkyl ring of 6 ring atoms;
- X<sup>1</sup>: CR<sup>a</sup>, where R<sup>a</sup> is hydrogen;
- X<sup>2</sup>: CR<sup>3</sup>, where R<sup>3</sup> is CO<sub>2</sub>H;

$X^3$ :  $CR^4$ , where  $R^4$  is hydrogen;

$X^b$ :  $CR^a$ , where  $R^b$  is hydrogen;

$R^1$  and  $R^2$ : hydrogen or  $(CH_2)_{0-3}R^{14}$ , where  $R^{14}$  is Het, where Het is a heteroaliphatic ring of 5 atoms containing an  $S(O)_2$  group; and

n: 1.

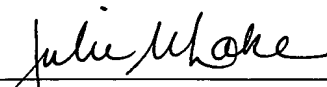
These elections read on pending claims 1-3, 5, 6 and 8-11; and claim 1 is generic.

It is respectfully submitted that search and examination of the entire application could be made without serious burden. *See* MPEP §803, in which it is stated that "if the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions" (emphasis added). It is respectfully submitted that this policy should apply in the present application in order to avoid unnecessary delay and expense to Applicants and duplicative examination by the Patent Office.

In view of these arguments, Applicants respectfully submit that this application is in condition for allowance. The Examiner is invited to contact the undersigned at the telephone number set forth below, should he believe that anything further is necessary to place this application in even better form for allowance.

Please charge Deposit Account No. 13-2755 for any fees due in connection with this Amendment. If any time extensions are needed for the timely filing of this Amendment, Applicants petition for such extensions and authorize the charging of Deposit Account No. 13-2755 for the necessary fees.

Respectfully submitted,

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